UNITED STATES PATENT AND TRADEMARK OFFICE

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 August 2008*.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22, 28-49 and 55-65* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1-22, 28-49, and 55-65* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments with respect to independent claims 1-22, 28-49, and 55-65

have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentabily shall not be negatived by the manner in which the invention was made.

3.   Claims 1-8, 28-40, 42-43, 46-49, and 55-64 are rejected under 35 U.S.C. 103(a)

as being unpatentable over Eldering US Patent Publication 2002/0144263, in view of

Herz et al 5,758,257 (hereafter referenced as Eldering, and Herz).

Regarding claim 1, Eldering teaches detecting an indicator indicative of an event

in the delivery of the programming content (Para. 0089, ll. 1-2: Eldering teaches

requesting an insertion of an advertisement upon detection of an indicator which meets

"in response to a detection of the indicator" (Para. 0089, ll. 3-6: Eldering teaches and

providing, to the at least one group, the at least one programming segment in lieu of the

programming content during the event (figure 4: Eldering teaches generating at least

one programming segment based at least on the data (figure 9, labels 912, &922).

Eldering is silent about generating a list of individual ones of the plurality of user

terminals currently receiving the programming content; obtaining data descriptive of at

least one group of members of the list.

Herz teaches scrutinizing a list of viewers currently viewing a program stream based on their appetite for the content which meets "generating a list of individual ones of the plurality of user terminals currently receiving the programming content" (column 26, 18-19) and is exhibited in figure 2, label 212: Herz teaches obtaining data descriptive of at least one group of members of the list (figure 1, steps 110, 112, &104).

Therefore, would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Eldering to include generating a list of individual ones of the plurality of user terminals currently receiving the programming content; obtaining data descriptive of at least one group of members of the list; as taught by Herz in order make available video programming and other data most desired by customers.

Regarding claim 2, Eldering teaches the method wherein the indicator contains a message which includes the start and end of event (Para. 0057, ll. 11-13).

Regarding claim 3, Eldering teaches the method further comprising identifying available transmission channel in the network and transmitting at least one programming segment over at least one available transmission channel (figure 7, label 701).

Regarding claim 4, Eldering teaches the method wherein the event includes an advertisement break (Para. 0089, ll. 1-2).

Regarding claim 5, Eldering teaches the method wherein the indicator includes a digital program insertion (DPI) cue (Para. 0057, ll. 1-3).

Regarding claim 6, Eldering teaches the method wherein at least one programming segment comprises one or more advertisements (figure 4).

Regarding claim 7, Eldering teaches the method wherein the network includes a two-way multi-channel delivery network (Para. 0045, ll. 15-18).

Regarding claim 8, Eldering teaches the method wherein the network includes a cable TV network (figure 1).

Regarding claim 28, Eldering teaches a detector for detecting an indicator indicative of an event in the delivery of the programming content (Para. 0089, ll. 1-2: Eldering teaches requesting an insertion of an advertisement upon detection of an indicator which meets "a processing unit, responsive to a detection of the indicator" (Para. 0089, ll. 3-6: Eldering teaches a server for generating at least one programming segment based at least on the data (figure 5, label 503: Eldering teaches a mechanism for providing, to the at least one group, the at least one programming segment in lieu of the programming content during the event (figure 4 (TDMA)).

Eldering is silent about generating a list of individual an audience currently receiving the programming content; data being obtained which is descriptive of at least one group of members of the audience.

Herz teaches scrutinizing a list of viewers currently viewing a program stream based on their appetite for the content which meets "generating a list of individual ones of the plurality of user terminals currently receiving the programming content" (column 26, 18-19; col. 42, ll. 61-63) and is exhibited in figure 2, label 212: Herz teaches

obtaining data descriptive of at least one group of members of the list (figure 1, steps

110, 112, &104).

Therefore, would have been obvious to one of ordinary skill in the art at the time

the invention was made to modify the method of Eldering to include generating a list of

individual an audience currently receiving the programming content; data being

obtained which is descriptive of at least one group of members of the audience as

taught by Herz in order make available video programming and other data most desired

by customers.

Regarding claim 29, Eldering teaches the system wherein the indicator contains

a message which includes a start time of the event (Para. 0057, ll. 11-13).

Regarding claim 30, Eldering teaches the system wherein available transmission

channel in the network are identified, the at least one programming segment being

transmitted over at least one of the available transmission channels (figure 7, label 701).

Regarding claim 31, Eldering teaches the system wherein the event includes an

advertisement break (Para. 0089, ll. 1-2).

Regarding claim 32, Eldering the system wherein the indicator includes a digital

program insertion DPI cue (Para. 0057, ll. 1-3).

Regarding claim 33, Eldering teaches the system wherein at least one

programming segment comprises one or more advertisements (figure 4 (TDMA)).

Regarding claim 34, Eldering teaches the system wherein the network includes a

two-way multi-channel delivery network" (Para. 0045, ll. 15-18).

Regarding claim 35, Eldering teaches the system wherein the network includes a

cable TV network (figure 1, label 20).

Regarding claim 36, Eldering teaches a module for dynamically assigning

transmission channels (figure 7, label 701: Eldering teaches a detector for detecting, in

the program stream, a message indicating a scheduled programming segment (Para.

0089, ll. 1-2: Eldering teaches requesting an insertion of an advertisement upon

detection of an indicator which meets "a processing unit, responsive to a detection of

the message" (Para. 0089, ll. 3-6: Eldering teaches a server for generating one or more

data streams containing one or more alternate programming segment for substituting

the scheduled programming segment (figure 5, label 503: Eldering teaches a

mechanism for providing to the at least one data stream to a selected one of the

identified groups (figure 5, whole system).

Eldering is silent about identifying a set of one or more user terminals which is

currently receiving the program stream, one or more groups of user terminals within the

set being identified.

Herz teaches scrutinizing a list of viewers currently viewing a program stream

based on their appetite for the content which meets "identifying a set of one or more

user terminals which is currently receiving the program stream, one or more groups of

user terminals within the set being identified" (column 26, 18-19) and is exhibited in

figure 2, label 212.

Therefore, would have been obvious to one of ordinary skill in the art at the time

the invention was made to modify the method of Eldering to include identifying a set of

one or more user terminals which is currently receiving the program stream, one or more groups of user terminals within the set being identified as taught by Herz in order make available video programming and other data most desired by customers.

Regarding claim 37, Eldering teaches the system wherein the scheduled programming segment comprises one or more advertisements (figure 4).

Regarding claim 38, Eldering teaches the system wherein the message includes the start time of the scheduled programming segment (Para. 0057, ll. 11-13).

Regarding claim 39, Eldering teaches the system wherein the message includes a DPI cue (Para. 0057, ll. 1-3).

Regarding claim 40, Eldering teaches the system wherein at least one of the alternate programming segments comprises one or more advertisements (figure 4).

Regarding claim 42, Eldering teaches the system wherein the one or more groups are identified by analyzing demographic data associated with the user terminal set (Para. 006, ll. 9-11).

Regarding claim 43, Eldering teaches the method wherein the one or more groups are identified as a function of at least the number of available transmission channels in the network (figure 6, labels 605 & 607).

Regarding claim 46, Eldering teaches the method wherein the additional program streams utilize a subset of the available transmission channels (figure 5, label 503).

Regarding claim 47, Eldering teaches the method further comprising determining a subset of the available transmission channels for carrying the one or more data streams (figure 7, label 701).

Regarding claim 48, Eldering teaches the system wherein the network includes a two-way multi-channel delivery network (Para. 0045, ll. 15-18).

Regarding claim 49, Eldering teaches the system wherein the network includes a cable TV network (figure 1, label 20).

Regarding claim 55, Eldering teaches a detector for detecting an indicator indicative of an advertising segment within the programming content" (Para. 0089, ll. 1-2: Eldering teaches requesting an insertion of an advertisement upon detection of an indicator which meets "if the indicator is detected" (Para. 0089, ll. 3-6: Eldering teaches identifying one or more groups within the set of the plurality of users (figure 6, label 605; Eldering teaches allocating one or more available transmission channels for conveying at least one advertisement data stream (figure 5, whole system: Eldering teaches the number of available transmission channels allocated being a function of the number of the groups and the number of program channels being requested by the set of the plurality of users during the scheduled presentation of the programming content (figure 6, labels 605, & 607: Eldering teaches providing, over the allocated one or more transmission channels the at least one advertisement data stream which contains one or more advertisements targeted at a selected group of the set of the plurality of users in lieu of providing the advertising segment within the programming content (figure 6 labels 603, 605 & 607& figure 4).

Eldering is silent about, deriving a list of a set of the plurality of users which are receiving the programming content during the scheduled presentation of the programming content.

Herz teaches scrutinizing a list of viewers currently viewing a program stream based on their appetite for the content which meets "deriving a list of a set of the plurality of users which are receiving the programming content during the scheduled presentation of the programming content" (column 26, 18-19) and is exhibited in figure 2, label 212.

Therefore, would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Eldering to include deriving a list of a set of the plurality of users which are receiving the programming content during the scheduled presentation of the programming content as taught by Herz in order make available video programming and other data most desired by customers.

Regarding claim 56, Eldering teaches the method wherein the indicator contains a message which includes the start time of an advertising segment" (Para. 0089, II. 1-2).

Regarding claim 57, Eldering teaches the method wherein the indicator includes a DPI cue (Para. 0057, II. 1-3).

Regarding claim 58, Eldering the method wherein the network includes a two-way multi-channel delivery network (Para. 0045, II. 15-18).

Regarding claim 59, Eldering teaches the method wherein the network includes a cable TV network (figure 1, label 20).

Regarding claim 60, Eldering teaches a detector for detecting an indicator indicative of an advertising segment within the programming content" (Para. 0089, II. 1-2 Eldering teaches requesting an insertion of an advertisement upon detection of an indicator which meets "a processing unit responsive to a detection of the indicator"

(Para. 0089, ll. 3-6: Eldering teaches a server for allocating one or more available transmission channels for conveying at least one advertisement data stream ((figure 5, label 503: Eldering teaches the number of available transmission channels allocated being a function of the number of the groups and the number of program channels currently being requested by the audience during the scheduled presentation of the programming content (figure 6, labels 603, 605, & 607: Eldering teaches a mechanism for providing, over the allocated one or more transmission channels, the at least one advertisement data stream which contains one or more advertisements targeted at a selected group of the plurality of users, in lieu of providing the advertising Segment within the programming content (figures 4 & 5).

Eldering is silent about, generating a list of an audience receiving the programming content during the scheduled presentation of the programming content, one or more groups of the audience being identified.

Herz teaches scrutinizing a list of viewers currently viewing a program stream based on their appetite for the content which meets "generating a list of an audience receiving the programming content during the scheduled presentation of the programming content, one or more groups of the audience being identified" (column 26, 18-19) and is exhibited in figure 2, label 212.

Therefore, would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Eldering to include generating a list of an audience receiving the programming content during the scheduled presentation of the programming content, one or more groups of the audience being identified as taught

by Herz in order make available video programming and other data most desired by
customers.

Regarding claim 61, Eldering teaches the system wherein the indicator contains
a message which includes the start time of an advertising segment (Para. 0089, ll. 1-2).

Regarding claim 62, Eldering teaches the system wherein the indicator includes
a DPI cue (Para. 0057, ll. 1-2).

Regarding claim 63, Eldering teaches the system wherein the network includes a
two-way multi-channel delivery network (Para. 0045, ll. 15-18).

Regarding claim 64, Eldering teaches the system wherein the network includes a
cable TV network (figure 1, label 20).

4.   Claims 9-13, 15-16, 20-22 and 65 are rejected under 35 U.S.C. 103(a) as being
unpatentable over Eldering, in view of Dimitrova US Patent Publication 2003/0093784,
in view of Herz (hereafter referenced as Dimitrova).

Regarding claim 9, Eldering teaches detecting, in the program stream, a
message indicating a scheduled programming segment (Para. 0089, ll. 1-2: Eldering
teaches requesting an insertion of an advertisement upon detection of an indicator
which meets "in response to detection of the message" (Para. 0089, ll. 3-6: Eldering
teaches providing at least one of the data streams to a selected one of the identified
groups over the communications network (figure 4: Eldering teaches generating one or
more data streams containing one or more alternate programming segment for
substituting the scheduled programming segment (figure 5, whole system).

Eldering is silent about identifying one or more groups of user terminals which is currently receiving the programming stream; identifying one or more groups of user terminals within the set of user terminals currently receiving the program stream; generating subsequent to identifying one or more groups of user terminals within the set of user terminals currently receiving the program stream one or more data streams containing one or more alternate programming segment for substituting the scheduled programming segment.

Dimitrova teaches method of monitoring viewers wherein a feeds back on the viewers behavioral information including the program currently viewed by the viewers is sent up stream for analysis which meets "identifying a set of user terminals currently receiving the programming stream" (Para. 0045, ll. 1-4).

Therefore, would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Eldering to include identifying a set of user terminals currently receiving the programming stream as taught by Dimitrova in order to affect television monitoring and advertisement control.

Eldering and Dimitrova are silent about identifying one or more groups of user terminals within the set of user terminals currently receiving the program stream; subsequent to identifying one or more groups of user terminals within the set of user terminals currently receiving the program stream.

Herz teaches scrutinizing a list of viewers currently viewing a program stream based on their appetite for the content which meets "identifying one or more groups of user terminals within the set of user terminals currently receiving the program stream"

(column 26, 18-19) and is exhibited in figure 2, label 212: Herz teaches selecting most popular program from the list of programs to be transmitted after scrutinizing the list which meets "subsequent to identifying one or more groups of user terminals within the set of user terminals currently receiving the program stream" (figure 2, Labels 212, & 204).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Eldering and Dimitrova to include identifying one or more groups of user terminals within the set of user terminals currently receiving the program stream; subsequent to identifying one or more groups of user terminals within the set of user terminals currently receiving the program stream as taught by Herz in order make available video programming and other data most desired by customers.

Regarding claim 10, Eldering teaches the method wherein the scheduled programming segment comprises one or more advertisements (figure 4).

Regarding claim 11, Eldering teaches the method wherein the message includes the start time of the scheduled programming segment (Para. 0057, ll. 11-13).

Regarding claim 12, Eldering teaches the method wherein the message includes a DPI cue (Para. 0057, ll. 1-3).

Regarding claim 13, Eldering teaches the method wherein at least one of the alternate programming segments comprises one or more advertisements (figure 4).

Regarding claim 15, Eldering teaches where in the one or more groups are identified by analyzing demographic data associated within the user terminal set (figure 9, label 922).

Regarding claim 16, Eldering teaches the method, wherein the one or more groups are identified as a function of at least the number of available transmission channels in the network (figure 6, labels 605, & 607).

Regarding claim 20, Eldering teaches the method further comprising determining a subset of the available transmission channels for carrying the one or more data streams (figure 5 label 503).

Regarding claim 21, Eldering teaches the method wherein the network includes a two-way multi-channel delivery network" (Para. 0045, ll. 15-18).

Regarding claim 22, Eldering teaches method wherein the network includes a cable TV network (figure 1, label 20).

Regarding claim 65, Eldering teaches detecting, in the program stream, an indication of a scheduled programming segment (Para. 0089, ll. 1-2: Eldering teaches providing at least one of the data streams to a selected one of the identified groups over the communications network; wherein at least said act of generating is performed without reliance on any of said plurality of user terminals (figure 4 & 5: Eldering teaches generating one or more data streams containing one or more alternate programming segment for substituting the scheduled programming segment (figures 5, whole system):

Eldering is silent about identifying a set of user terminals currently receiving the programming stream; identifying one or more groups of user terminals within the set of user terminals currently receiving the program stream.

Dimitrova teaches method of monitoring viewers wherein a feeds back on the viewers behavioral information including the program currently viewed by the viewers is sent up stream for analysis which meets "identifying a set of user terminals currently receiving the programming stream" (Para. 0045, ll. 1-4).

Therefore, would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Eldering to include identifying a set of user terminals currently receiving the programming stream as taught by Dimitrova in order to affect television monitoring and advertisement control.

Eldering and Dimitrova are silent about identifying one or more groups of user terminals within the set of user terminals currently receiving the program stream.

Herz teaches scrutinizing a list of viewers currently viewing a program stream based on their appetite for the content which meets "identifying one or more groups of user terminals within the set of user terminals currently receiving the program stream" (column 26, 18-19) and is exhibited in figure 2, label 212).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Eldering and Dimitrova to include identifying one or more groups of user terminals within the set of user terminals currently receiving the program stream; subsequent to identifying one or more groups of user terminals within the set of user terminals currently receiving the program stream as

taught by Herz in order make available video programming and other data most desired

by customers.

5.   Claims 17-19, and 44-45 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Eldering, in view of Herz, in view of Eldering et al US Patent

6,615,039 (hereafter referenced as Eldering2).

Regarding claim 17, Eldering, Dimitrova, and Herz are silent about the method

wherein the one or more groups are identified also as a function of the number of

additional scheduled programming expected to occur concurrently within the scheduled

programming segment.

Eldering2 disclose how the increase in channels leads to forming more groups

and additional programming which reads on "the method wherein the one or more

groups are identified also as a function of the number of additional scheduled

programming expected to occur concurrently within the scheduled programming

segment" (column 7, 12-19).

Therefore, it would have been obvious to one of ordinary skill in the art at the

time the invention was made to modify the methods of Eldering, Dimitrova, and Herz to

include the method wherein the one or more groups are identified also as a function of

the number of additional scheduled programming expected to occur concurrently within

the scheduled programming segment as taught by Eldering2 in order to effectively insert

advertisements locally.

Regarding claim 18, Eldering, Dimitrova, and Herz are silent about the method

wherein the one or more groups are identified also as a function of the additional

programming streams expected to be delivered concurrently within the programming stream during the scheduled programming segment.

Eldering2 disclose how the increase in channels leads to identifying more groups and additional programming which reads on "the method wherein the one or more groups are identified also as a function of the additional programming streams expected to be delivered concurrently within the programming stream during the scheduled programming segment" (column 7, 12-19).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods of Eldering, Dimitrova, and Herz to include the method wherein the one or more groups are identified also as a function of the additional programming streams expected to be delivered concurrently within the programming stream during the scheduled programming segment as taught by Eldering2 in order to effectively insert advertisements locally.

Regarding claim 19, Eldering teaches the method wherein the additional program streams utilize a subset of the available transmission channels (figure 7, label 701).

Regarding claim 44, Eldering, and Herz are silent about the method wherein the one or more groups are identified also as a function of the number of additional scheduled programming expected to occur concurrently within the scheduled programming segment.

Eldering2 disclose how the increase in channels leads to forming more groups and additional programming which reads on "the system wherein the one or more groups are identified also as a function of the additional scheduled programming

expected to occur concurrently within the scheduled programming segment" (column 7, 12-19).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods of Eldering, and Herz to include the system wherein the one or more groups are identified also as a function of the additional scheduled programming expected to occur concurrently within the scheduled programming segment as taught by Eldering2 in order to effectively insert advertisements locally.

Regarding claim 45, Eldering, Dimitrova, and Herz are silent about the method wherein the one or more groups are identified also as a function of the additional programming streams expected to be delivered concurrently within the programming stream during the scheduled programming segment.

Eldering2 disclose how the increase in channels leads to identifying more groups and additional programming which reads on "the system wherein the one or more groups are identified also as a function of the additional programming streams expected to be delivered concurrently with the programming stream during the scheduled programming segment" (column 7, 12-19).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the methods of Eldering, and Herz to include the system wherein the one or more groups are identified also as a function of the additional programming streams expected to be delivered concurrently with the

programming stream during the scheduled programming segment as taught by Eldering2 in order to effectively insert advertisements locally.

6.   Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering, in view of Dimitrova, in view of Herz, in view of Hendricks et al US Patent 6,463,585 (hereafter referenced as Hendricks).

Regarding claim 14, Eldering, Dimitrova, and Herz are silent about directing at least one user terminal in the selected group to tune from a first transmission channel at the start of the scheduled programming segment; transmitting the at least one data stream over the second transmission channel; and directing the at least one user terminal in the selected group to re-tune to the first transmission channel at the end of the scheduled programming segment.

Hendricks teaches an ad delivery technique that causes subscriber equipment to switch from the main program channel to and advertisement channel at the program break returning afterwards which reads on "directing at least one user terminal in the selected group to tune from a first transmission channel at the start of the scheduled programming segment; transmitting the at least one data stream over the second transmission channel; and directing the at least one user terminal in the selected group to re-tune to the first transmission channel at the end of the scheduled programming segment" (column 4, 24-39).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Eldering, Dimitrova, and Herz to include directing at least one user terminal in the selected group to tune from a first

transmission channel at the start of the scheduled programming segment; transmitting

the at least one data stream over the second transmission channel; and directing the at

least one user terminal in the selected group to re-tune to the first transmission channel

at the end of the scheduled programming segment as taught by Hendricks in order to

support multiple channel advertising.

7.   Claim 41 is rejected under 35 U.S.C. 103(a) as being unpatentable over Eldering

in view of Herz, in view of Hendricks.

        Regarding claim 41, Eldering, and Herz are silent about directing at least one

user terminal in the selected group to tune from a first transmission channel at the start

of the scheduled programming segment; transmitting the at least one data stream over

the second transmission channel; and directing the at least one user terminal in the

selected group to re-tune to the first transmission channel at the end of the scheduled

programming segment.

        Hendricks teaches an advertisement delivery technique that causes subscriber

equipment to switch from the main program channel to and advertisement channel at

the program break and returning after the advertisement break which reads on

"directing at least one user terminal in the selected group to tune from a first

transmission channel at the start of the scheduled programming segment; transmitting

the at least one data stream over the second transmission channel; and directing the at

least one user terminal in the selected group to re-tune to the first transmission channel"

(column 4, 24-39)

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Eldering, and Herz to include directing at least one user terminal in the selected group to tune from a first transmission channel at the start of the scheduled programming segment; transmitting the at least one data stream over the second transmission channel; and directing the at least one user terminal in the selected group to re-tune to the first transmission channel at the end of the scheduled programming segment as taught by Hendricks in order to support multiple channel advertising.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY BANTAMOI whose telephone number is (571)270-3581. The examiner can normally be reached on Monday - Friday 8-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Koenig can be reached on (571) 272 7296. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Anthony Bantamoi
Examiner
Art Unit 2423

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/Andrew Y Koenig/
Supervisory Patent Examiner, Art Unit 2423